



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

March 25, 1993

Dear ---

This is in reply to your March 2, 1993 letter regarding the application of sales tax to sales of --- -
-- ---.

You explained that --- published weekly in --- California. Approximately 80 percent of the subscription copies are delivered by mail. The other 20 percent are carried from the Riverside plant by local trucking companies to drop off sites where employees of your wholly owned subsidiary pick up copies of the publication and deliver them to subscribers.

You believe that, under 1992 Senate Bill 267, your sale of the 80 percent delivered by mail are clearly exempt. You also believe there was no intention to tax the sale of periodicals delivered by third parties and, therefore, ask our concurrence that all of your subscription sales of Barrons are exempt.

As you know, Senate Bill 267 amended Revenue and Taxation Code section .6362.7 to provide an exemption from sales and use tax for the sale and use of tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier. Subdivision (c) of section 6362.7 defines "periodical":

"(c) For purposes of this section, 'periodical' means any publication that appears at stated intervals at least four times per year, but not more than 60 times per year, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. The term does not include printed sales messages, shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period."

Assuming that --- qualifies as a periodical, as defined, we agree that, when you sell subscriptions to --- the exemption applies to your sale of the 80 percent delivered by mail.

Since section 6362.7 is an exemption statute, the Board must strictly construe the section to the end that the section will not be enlarged nor extended beyond the plain meaning of the language employed. It is well established that tax exemption statutes are to be strictly construed against taxpayers claiming them. (McConville v. State Board of Equalization, 85 Cal.App.3d 156; Standard Oil v. State Board of Equalization, 39 Cal.App.3d 765.) We disagree with your conclusion that the exemption applies to the sale of the 20 percent of --- subscriptions that are not delivered by mail or common carrier.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours

Ronald L. Dick
Senior Tax Counsel

RLD:sr